



LETTER NO. L-2-05

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VIA E-MAIL

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January 12, 2005

British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
Review of Electricity Purchase Agreement

Exhibit No. A-35

Mr. Richard Tennant
President
Vanport Sterilizers Inc.
1032 Delestre Avenue
Coquitlam, BC V3K 2H2

Dear Mr. Tennant:

Re: British Columbia Hydro and Power Authority
Call for Tenders for Capacity on Vancouver Island
A Review of Electricity Purchase Agreement
Request for Reconsideration of Commission Order No. G-119-04

By letter dated January 7, 2005, Vanport Sterilizers Inc. ("Vanport") requested inter alia a reconsideration of certain aspects of Order No. G-119-04 denying requests made by Vanport (Exhibit No. C39-4). The January 7, 2005 letter also requested inter alia that the British Columbia Utilities Commission (the "Commission") reconsider its decision to discourage the building of the Georgia Strait Crossing ("GSX") pipeline.

Order No. G-119-04

By letter dated December 8, 2004, Vanport requested status to intervene in the proceeding and to question the cost-effectiveness of the Electricity Purchase Agreement ("EPA") with Duke Point Power Limited Partnership compared to proposals from Vanport (Exhibit No. C39-1). The Vanport proposals are stated to relate to pumped hydro and renewable energy plants in the vicinity of the Jordan River Hydroelectric Project, coal water slurry fuel, mitigation and storage of greenhouse gases and processing of municipal wastes. The letter also requested "...your recommendation that approval of the proponents (sic) proposal be delayed...". The Commission registered Vanport as an Intervenor in the proceeding.

By letter dated December 17, 2004, Vanport referred to "...the requested basic studies.", and requested that the Commission order BC Hydro to respond to its exhibit and information request (Exhibit No. C39-2). By letter dated December 22, 2004, Vanport repeated its request that the Commission order BC Hydro to respond to its information request, and for the Commission to consider Vanport's evidence (Exhibit No. C39-03). The December 22nd letter also requested that the Commission consider if BC Hydro erred in its decision to abandon the GSX Pipeline Project, which Vanport states is an integral part of its coal water slurry fuel proposal.

At the December 22, 2004 Pre-Hearing Conference, at transcript pages 582 and 583, Mr. Tennant stated Vanport's question as a request that the risk analysis of the cost-effectiveness of the EPA "include an analysis of pumped hydro or cold water stage (coal water slurry) fuel." At transcript page 850, counsel for BC Hydro stated that Vanport's question is out of scope since it relates to the GSX pipeline, which is outside the defined scope of the proceeding. The Chair at transcript page 851 stated that the Commission Panel would make a determination whether or not Vanport's request is in scope.

Vanport's requests relate primarily to the GSX pipeline and to resource options that are associated with the GSX pipeline. At the outset, the Commission Panel wishes to clarify that the proposed GSX pipeline would not be a public utility under the Utilities Commission Act, and would lie outside the jurisdiction of this Commission. Furthermore, on November 30, 2004 at page 313 of the transcript, the Commission Panel determined that the GSX pipeline is outside the scope of the proceeding.

The Vanport requests also relate to some extent to a range of alternative energy resource options on Vancouver Island that may not be associated with the GSX pipeline. At pages 313 and 314 of the transcript the Commission Panel identified the three resource addition options that are to be considered in this proceeding. On December 17, 2004 the Commission Panel at transcript page 453 confirmed that these resource options are the Tier 1 Duke Point Power Limited Partnership Project, the Tier 2 option that includes the Green Island Energy Ltd. Project and the No Award option. The Commission Panel determined at page 314 of the transcript that no other resource options need be considered.

Therefore, the Commission panel made the following determination in Order No. G-119-04: "The Commission finds that the requests by Vanport Sterilizers Inc. in Exhibits C39-1, C39-2 and C39-3 relate to resource options that are outside the scope of this proceeding, and denies the requests."

Applications for Reconsideration

The Commission's document "A Participants' Guide to the British Columbia Utilities Commission" (the "Participants' Guide") states at pages 34 and 35 that an application for reconsideration undergoes an initial screening phase, in which the applicant must establish a prima facie case that is sufficient to warrant full consideration by the Commission. The Commission generally applies the following criteria to determine whether or not a reasonable basis exists for allowing a reconsideration:

- The Commission has made an error in fact or law;
- There has been a fundamental change in circumstances or facts since the Decision;
- A basic principle had not been raised in the original proceedings; or
- A new principle has arisen as a result of the Decision.

Vanport Reconsideration Application

As circumstances that support a reconsideration, the Vanport letter dated January 7, 2005 that is Exhibit C39-4 identifies "basic managerial failures identified in our letter exhibits C39-1, C39-2 and C39-3, as well as other relevant matters identified at Transcript pages 581-584 that concern both the decision by BC Hydro to abandon the GSX pipeline as well as the question apparent at page 583 concerning the cost-effectiveness of the EPA versus our proposed pumped hydro and coal water slurry fuel pipeline option to be built concurrently with the GSX pipeline."

Exhibit C39-4 clearly indicates that Vanport's areas of interest relate mainly to the GSX pipeline and energy resource projects that are associated with the GSX pipeline. The GSX pipeline is outside the scope of this proceeding. After reviewing Exhibit C39-4 and considering the criteria for reconsideration that are set out in the Participants' Guide, the Commission Panel concludes that Vanport has not make a sufficient prima facie case that a reasonable basis exists for allowing the reconsideration. Therefore, the Commission Panel denies Vanport's application for a reconsideration of Order No. G-119-04.

The January 7, 2005 letter from Vanport appears to also request a reconsideration of the December 29, 2004 letter from Commission staff regarding Vanport's Participant Funding/Cost Award budget for the proceeding. The letter from Commission staff was provided only to forewarn Vanport of potential issues that may place funding by the Commission at risk, and is not binding on Vanport or the Commission panel. The determination on any cost award will be made by the Commission panel upon application by Vanport after the proceeding. Therefore, there is nothing to reconsider with respect to Vanport's Participant Funding/Cost Award budget.

Yours truly,

Original signed by:

Robert J. Pellatt

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